

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CR-357-2-BR
No. 5:16-CV-522-BR

CURTIS JEFFREY ROBINSON,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

This matter is before the court on petitioner's motion to remove this proceeding from abeyance and for re-sentencing. (DE # 197.) The motion represents that the government agrees petitioner's conviction on Count 2 is no longer valid, in light of United States v. Davis, 139 S. Ct. 2319 (2019). (Id. at 2.) The government did not file a response to the motion.

The instant motion and petitioner's 28 U.S.C. § 2255 motion, (DE # 164), are ALLOWED. The judgment entered 9 May 2012 and petitioner's conviction on Count 2 are VACATED. Count 2 is DISMISSED. Resentencing on Count 1 is SET for 28 October 2019. The U.S. Probation Office is DIRECTED to file a memorandum setting forth any revisions to the Presentence Report, (DE # 86).

This 10 September 2019.



W. Earl Britt
Senior U.S. District Judge